

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
SUZANNA SENSING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-11508-RCL
	)	
OUTBACK STEAKHOUSE OF	)	
FLORIDA, INC. AND CHARLES	)	
KOZMITS,	)	
	)	
Defendants.	)	
_____	)	

**PLAINTIFF SUZANNA SENSING'S MOTION FOR ORDER IMPOSING  
SANCTIONS FOR SPOILIATION OF EVIDENCE**

NOW COMES your PLAINTIFF, SUZANNA SENSING, and, pursuant to Local Rule 7.1(B)(1), hereby MOVES this HONORABLE COURT, that it enter its order SANCTIONING the defendants herein on account of their spoliation of material evidence, by EXCLUDING from its consideration of defendants' Motion for Summary Judgment; and subsequently from the trial hereof, of any reference to, and/or any testimony relating to, and/or any documents bearing on or arising out of, defendant's assertions concerning prior accidents, "seizures," or other incidents involving Ms. Sensing; or concerning any work shifts for which Ms. Sensing was scheduled to work but failed to or was unable to appear; and states as her reasons therefor that defendants' actions destroying or otherwise rendering managers' incident books and employee scheduling sheets unavailable for examination

or use in trial of this matter deprived the court of significant evidence to assist it in determining the facts underlying her claims; and deprived her of the opportunity to assess all evidence relating to her claims, thus preventing her from preparing her claims as fully as possible for presentation to the court, as is more fully set out in the accompanying Memorandum of Reasons supporting this Motion.

RESPECTFULLY SUBMITTED,  
SUZANNA SENSING

BY HER ATTORNEY

/s/ Paul H. Merry

---

Paul H. Merry, Esq.  
Law Offices of Paul H. Merry  
50 Congress Street 10<sup>th</sup> Floor  
Boston, MA 02109  
(617) 720-2400  
B.B.O. No. 343580

DATED:

CERTIFICATE OF SERVICE

I, Paul H. Merry, hereby certify that the foregoing pleading was served on the defendant herein by filing with the Electronic Court Filing System ("ECF") on April 1, 2008, which system customarily notifies counsel for all parties electronically of the filing of pleadings including this one.

/s/ Paul H. Merry  
Paul H. Merry